



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/705,794	11/06/2000	Shigeto Kobayashi	Q61485	6035

7590 03/18/2005

Sughrue Mion Zinn Macpeak & Seas
2100 Pennsylvania Avenue NW
Washington, DC 20037

EXAMINER

SELBY, GEVELL V

ART UNIT	PAPER NUMBER
----------	--------------

2615

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/705,794

Applicant(s)

KOBAYASHI, SHIGETO

Examiner

Gevell Selby

Art Unit

2615

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


TUAN HO
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 2/18/05 have been fully considered but they are not persuasive. The applicant submits that it would not have been obvious to configure the print head to move out of the exposure area as claimed in claim 1, for the following reasons:

1) The Deguchi reference does not support the contention that the preliminary emission process is performed before printing and the recording medium is not conveyed and raised into position until the device is ready to print; 2) It is not necessarily inherent that the photographic paper is out of the exposure area, when the preliminary light emission is conducted; 3) Moving the photographic paper out of the exposure area prior to the preliminary emission is not equivalent to nor does it make obvious moving the print head itself. The Examiner respectfully disagrees.

Examiner's Response:

Re claims 1, 3, and 4) The Deguchi reference discloses the preliminary light emission is performed before printing or in the time period before the image recording to form an image for actual use on the photosensitive material is conducted as conceded to by the applicant (see amendment: page 3, paragraph 2 and Deguchi column 2, lines 15-20). The reference discloses during image recording, the recording medium is shifted relative to the recording head (see Deguchi: column 1, line 67 to column 2, line 4) and the pressing member (31) raises the photographic paper (2) pressing it against the transparent glass (33) during exposure or printing and separates and lowers the paper otherwise (see Deguchi: column 7, lines 15-29). It is inherent the photographic is out of the exposure area when the preliminary process is performed because the paper is not conveyed into the exposure area until the printing process which occurs after the preliminary emission process. The Applicant notes that Deguchi discloses the use of shutter arrays to further emphasize the it is not inherent that the paper is out of the exposure area, however this reference is irrelevant to the examiner's statement of inherency, because the applicant refers to a different embodiment of the invention that uses an LED recording head wherein the embodiment referenced by the examiner uses a vacuum fluorescent print head as the claimed invention. Because moving the printing head and moving the photographic paper relative to the print head were art recognized equivalents at the time of the invention in those printing applications where the photographic paper must be protected from improper exposure, one of ordinary skill would have found it obvious to substitute moving the printing head for moving the photographic paper relative to the print head.

Re Claims 5-9 and 11-16) Claims 5-9 and 11-16 are disclosed by the Deguchi reference for the same reason as stated above to claim 1.